

1 EDMUND G. BROWN JR., Attorney General
of the State of California
2 JOSE R. GUERRERO, State Bar No. 97276
Supervising Deputy Attorney General
3 CATHERINE E. SANTILLAN
Senior Legal Analyst
4 455 Golden Gate Avenue, Suite 11000
San Francisco, CA 94102-7004
5 Telephone: (415) 703-5579
Facsimile: (415) 703-5480

6 Attorneys for Complainant

7
8 **BEFORE THE**
RESPIRATORY CARE BOARD
9 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

10 In the Matter of the Accusation Against:

Case No. 1H 2007 636

11 DEBBIE LYNN RAPER
12 909 Saint Ann Drive
Paso Robles, CA 93446

A C C U S A T I O N

13 Respiratory Care Practitioner License No. 15197

14 Respondent.
15

16 Complainant alleges:

17 PARTIES

18 1. Stephanie Nunez (Complainant) brings this Accusation solely in her
19 official capacity as the Executive Officer of the Respiratory Care Board of California,
20 Department of Consumer Affairs.

21 2. On or about May 14, 1992, the Respiratory Care Board issued Respiratory
22 Care Practitioner License Number 15197 to Debbie Lynn Raper (Respondent). The Respiratory
23 Care Practitioner License was in full force and effect at all times relevant to the charges brought
24 herein and will expire on December 31, 2009, unless renewed.

25 JURISDICTION

26 3. This Accusation is brought before the Respiratory Care Board (Board),
27 Department of Consumer Affairs, under the authority of the following laws. All section
28 references are to the Business and Professions Code unless otherwise indicated.

1 4. Section 3710 of the Code states: “The Respiratory Care Board of
2 California, hereafter referred to as the board, shall enforce and administer this chapter [Chapter
3 8.3, the Respiratory Care Practice Act].”

4 5. Section 3718 of the Code states: “The board shall issue, deny, suspend,
5 and revoke licenses to practice respiratory care as provided in this chapter.”

6 6. Section 3750 of the Code states:

7 “The board may order the denial, suspension or revocation of, or the imposition of
8 probationary conditions upon, a license issued under this chapter, for any of the following
9 causes:

10 “(d) Conviction of a crime that substantially relates to the qualifications,
11 functions, or duties of a respiratory care practitioner. The record of conviction or a
12 certified copy thereof shall be conclusive evidence of the conviction.

13 “(g) Conviction of a violation of any of the provisions of this chapter or of any
14 provision of Division 2 (commencing with Section 500), or violating, or attempting to
15 violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to
16 violate any provision or term of this chapter or of any provision of Division 2
17 (commencing with Section 500).

18 7. California Code of Regulations, title 16, section 1399.370, states:

19 “For the purposes of denial, suspension, or revocation of a license, a crime or act
20 shall be considered to be substantially related to the qualifications, functions or duties of
21 a respiratory care practitioner, if it evidences present or potential unfitness of a licensee to
22 perform the functions authorized by his or her license or in a manner inconsistent with the
23 public health, safety, or welfare. Such crimes or acts shall include but not be limited to
24 those involving the following:

25 “(a) Violating or attempting to violate, directly or indirectly, or assisting or
26 abetting the violation of or conspiring to violate any provision or term of the Act.

27 “(c) Conviction of a crime involving driving under the influence or reckless
28 driving while under the influence.

1 COST RECOVERY

2 8. Section 3753.5, subdivision (a) of the Code states:

3 "In any order issued in resolution of a disciplinary proceeding before the board,
4 the board or the administrative law judge may direct any practitioner or applicant found to have
5 committed a violation or violations of law to pay to the board a sum not to exceed the costs of the
6 investigation and prosecution of the case."

7 9. Section 3753.7 of the Code states:

8 "For purposes of the Respiratory Care Practice Act, costs of prosecution shall
9 include attorney general or other prosecuting attorney fees, expert witness fees, and other
10 administrative, filing, and service fees."

11 10. Section 3753.1 of the Code states:

12 "(a) An administrative disciplinary decision imposing terms of probation may
13 include, among other things, a requirement that the licensee-probationer pay the monetary costs
14 associated with monitoring the probation. "

15 FIRST CAUSE FOR DISCIPLINE

16 (Conviction)

17 11. Respondent is subject to disciplinary action under code sections 3750(d),
18 3750(g), 3752 and CCR 1399.370(a) and (c) [substantially related conviction] in that in 2007,
19 she was convicted of violating Vehicle Code section 23152(b) [driving with .08% or more blood
20 alcohol content.] The circumstances are as follows:

21 12. On or about March 31, 2007, at about 12:20 a.m., California Highway
22 Patrol Officer Juan Alfaro observed a vehicle weaving side to side, on and across the lane lines.
23 He activated the patrol vehicle overhead lights to stop the vehicle. Officer Alfaro contacted the
24 driver, who identified herself as Respondent via a California driver's license. While talking with
25 Respondent, he detected an odor of alcohol on her breath. He noticed that her eyes were
26 bloodshot and her speech was slurred. She admitted that she had been drinking "too much beer"
27 between 6:00 p.m. and 11:30 p.m. that evening. Officer Alfaro asked Respondent to exit her
28 vehicle, and requested that she walk to the right side of his patrol vehicle. As she did so, he

1 noticed that her gait was unsteady. He administered three field sobriety tests to Respondent. She
2 performed poorly on all three tests.

3 13. Based on her poor performance on the field sobriety tests, her poor
4 driving, and her objective symptoms of intoxication, Officer Alfaro arrested respondent for
5 violating Vehicle Code section 23152(a) [driving under the influence of alcohol.] He transported
6 her to Tulare County Jail where a blood test was administered about 12:50 a.m. The blood test
7 results indicated Respondent's blood alcohol content was .27%.

8 14. On or about April 17, 2007, a misdemeanor complaint titled *People of the*
9 *State of California vs. Debra Lynn Raper*, case no. TCM 182216, was filed in Tulare County
10 Superior Court. Count 1 charged Respondent with a misdemeanor violation of Vehicle Code
11 section 23152(a) [driving under the influence of alcohol.] Count 1 contained a special allegation
12 that Respondent had a blood alcohol content of .15% and more, by weight, within the meaning of
13 Vehicle Code section 23578. Count 2 of the complaint charged Respondent with a misdemeanor
14 violation of Vehicle Code section 23152(b) [driving with .08% or more blood alcohol content.]
15 Count 2 contained a special allegation that Respondent had a blood alcohol content of .15% and
16 more, by weight, within the meaning of Vehicle Code section 23578.

17 15. On or about April 25, 2007, Respondent was convicted on her plea of
18 guilty to Count 2, and the Court dismissed Count 1. Respondent was sentenced to 5 years
19 summary probation, ordered to serve 10 days in jail with credit for 1 day. She was allowed to
20 serve the remaining 9 days on Sundays only. She was ordered to pay fines, enroll and complete a
21 9 month Driving While Intoxicated (DWI) school, attend 1 AA meeting weekly for 6 months and
22 ordered to provide proof of attendance.

23 16. Therefore, Respondent is subject to disciplinary action under code sections
24 3750(d), 3750(g), 3752 and CCR 1399.370(a) and (c) [substantially related conviction] in that in
25 2007, she was convicted of violating Vehicle Code section 23152(b) [driving with .08% or more
26 blood alcohol content.]

27 ///

28 ///

1 PRAYER

2 WHEREFORE, Complainant requests that a hearing be held on the matters herein
3 alleged, and that following the hearing, the Respiratory Care Board issue a decision:

4 1. Revoking or suspending Respiratory Care Practitioner License Number
5 15197, issued to Debbie Lynn Raper;

6 2. Ordering Debbie Lynn Raper to pay the Respiratory Care Board the costs
7 of the investigation and enforcement of this case, and if placed on probation, the costs of
8 probation monitoring;

9 3. Taking such other and further action as deemed necessary and proper.
10

11 DATED: October 28, 2008
12
13

14 Original signed by Liane Zimmerman for:
15 STEPHANIE NUNEZ
16 Executive Officer
17 Respiratory Care Board of California
18 Department of Consumer Affairs
19 State of California
20 Complainant
21
22
23
24
25
26
27
28

SF2008200675
raper_d_acc.wpd